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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/617,390 07/17/00 WOOD

C MI40-301

021567 WM01/0402  
WELLS ST JOHN ROBERTS GREGORY AND MATKIN  
SUITE 1300  
601 W FIRST AVENUE  
SPOKANE WA 99201-3828

EXAMINER

VINCENT, D

ART UNIT

PAPER NUMBER

2661

DATE MAILED:

04/02/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

Handwritten signature

<b>Office Action Summary</b>	<b>Application No.</b> 09/617,390	<b>Applicant(s)</b> WOOD, CLIFTON W.	
	<b>Examiner</b> David R. Vincent	<b>Art Unit</b> 2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 42-78 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 42-78 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

#### Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)                      18) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_                      20) ☐ Other:

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1. Applicant is reminded of his/her duty to disclose (see 37 C.F.R. § 1.56) In *Critikon, Inc. v. Becton Dickinson Vascular Access, Inc.* 120 F.3d 1253, 43 USPQ2d 1666 (Fed. Cir. 1997).

#### ***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 42-78 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1-41 of U.S. Patent No. 6,118,789. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are directed towards the same invention.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 42-78 are rejected under 35 U.S.C. 102(b) as being anticipated by Snodgrass (US 5,583,850).

As shown in Figs. 1-15, especially Figs. 1, 7-9 and 12, Snodgrass discloses a method of establishing wireless communication between an interrogator (commander, 10 or 34, Fig. 1) and individual ones of multiple identification devices (responders 40 or 36) wherein the method comprises a binary tree search (Figs. 10, 12 and 15; cols. 11-15), establishing a number of bits to be used as unique identification numbers (Figs. 4-9; col. 11, lines 20-55; col. 13, line 36-col. 14, line 41, especially col. 13, lines 53-59), establishing a second number of bits to be used for random values (cols. 11, and 13-14, especially col. 13, lines 36-59), causing devices to select random values (col. 11 and col. 13, lines 53-59), determining the maximum number of devices (e.g., col. 13, lines 45-48), transmitting a command from the interrogator (Figs. 4-6), specified groups of devices (col. 13, 46-col. 14, line 10), receiving commands from devices (Figs. 7-9),

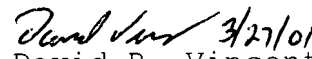
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and if a collision occurs selecting a smaller group of devices (col. 13, 46-col. 14, line 10). As specified in claims 42-78.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R. Vincent whose telephone number is 703-305-4957. The examiner can normally be reached on Monday-Thursday.

The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-9051 for regular communications and 703-308-9051 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

 3/27/01  
David R. Vincent  
Primary Examiner  
Art Unit 2661

March 27, 2001